THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.18645 OF 2006

Dated: 11th October, 2006.

Between :

S.A. Azeez .. Petitioner

And

The Deputy Transport Commissioner & Secretary,
Regional Transport Authority, Kurnool and
2 others. .. Respondents

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ORDER :

The petitioner claims to be the registered owner of the vehicle bearing No.AP-21-T-7272. The 1st respondent issued a notice informing the petitioner that as reported by the Vigilance and Enforcement Officer, the petitioner's vehicle was found to be carrying overloads while transporting different goods under public distribution system to different destinations and therefore he is liable to pay a sum of Rs.23,47,700/- towards compounding fee. The petitioner was called upon to submit his explanation to the said notice. In response, the petitioner submitted an explanation denying the allegations and also contending that the compounding fee levied is contrary to the provisions of the Motor Vehicles Act, 1988. Though no final order was passed with regard to the liability of the petitioner, the application made by the petitioner for variation of permit was returned by the 1st respondent by Memo dated 9-8-2002 on the ground that the petitioner failed to pay the compounding fee. That apart, a fresh application made by the petitioner on 23-8-2006 for grant of pucca permit was also rejected by proceedings dated 25-8-2006 on the ground that a sum of Rs.23,47,700/- is due from him towards compounding fee and informing him that his application for grant of permit cannot be considered until compounding fee due is fully paid. Aggrieved by the said action of the respondents, this writ petition is filed.

I have heard the learned Counsel for both the parties and

perused the material on record.

The learned Counsel for the petitioner at the outset submitted that in M. MURALIDHAR REDDY v. DEPUTY TRANSPORT COMMISSIONER AND SECRETARY, RTA, KURNOOL[1], this Court having considered all the relevant statutory provisions in detail, particularly Section 114 of the Motor Vehicles Act, 1988 and Rule 286 of A.P. Motor Vehicles Rules, 1989 held that the finding as to overload recorded by an unauthorised officer cannot be the basis for initiating action for compounding the offence under the Act and the Rules.

The learned Counsel contended that since in the case on hand also the compounding fee was sought to be levied by the respondents on the basis of the finding as to overload recorded by the Regional Vigilance and Enforcement Officer, Kurnool who was not authorised to do so, the respondents are not justified in insisting on payment of the compounding fee of Rs.23,47,700/-.

The learned Government Pleader does not dispute the fact that the ratio laid down in the said decision squarely applies to the case on hand.

Since admittedly in the case on hand, no independent enquiry was conducted before levying the compounding fee, following the above decision, the impugned orders dated 9-8-2002 and 25-8-2006 are set aside and the Writ Petition is disposed of with a direction to the respondents to pass appropriate orders afresh without insisting on payment of the compounding fee. No costs.

G. ROHINI, J.

Dt. 11-10-2006
gbs

[1] 2003 (5) ALD 1